

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Derek J. Peisen,

Petitioner-Appellant,

v.

Black Hawk County Board of Review,

Respondent-Appellee.

ORDER

Docket No. 11-07-1471

Parcel No. 8914-11-203-004

On February 17, 2012, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board under Iowa Code sections 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Derek J. Peisen was self-represented and requested a written consideration. The Black Hawk County Board of Review designated Attorney David J. Mason as its counsel. The Appeal Board having reviewed the entire record, and being fully advised, finds:

Findings of Fact

Derek J. Peisen, owner of a residentially classified property located at 416 N Division Street, Cedar Falls, Iowa, appeals from the Black Hawk County Board of Review regarding the 2011 property assessment. The January 1, 2011, assessment is allocated as \$23,520 in land value and \$123,120 in improvement value, for a total assessment of \$146,640.

The subject property is a one-story, brick home built in 1958. The improvements include 1168 square feet of above-grade finish; a full, unfinished basement; a 672 square-foot, detached garage built in 1975; and a 128 square-foot, enclosed porch. The site size is 0.242 acres.

Peisen protested the assessment to the Black Hawk County Board of Review and contended the property was assessed for more than the value authorized by law under section 441.21(b).

The Board of Review granted the protest, in part, by applying a 9% obsolescence adjustment. It reduced the total value to \$136,310, allocated as \$23,520 in land value and \$112,790 in improvement value.

Peisen then appealed to this Board reasserting his claim of over-assessment. Peisen asserts the correct value should be the property's 2010 total assessment of \$119,000, allocated as \$17,640 in land value and \$101,360 in improvement value.

Peisen states his property is a fifty-plus-year-old home with original exterior doors, windows, kitchen, and floor coverings.¹ He also notes there is a large cemetery that "borders the front of the property." We assume he means the cemetery is across the street.

Peisen did not request an oral hearing with the Board of Review, but did submit an appraisal to it. The appraisal was completed by Paula J. Eck of Rally Appraisal, LLC in Cedar Falls, Iowa. The appraisal was completed for mortgage financing purposes and had an effective date of May 8, 2009. The appraiser concluded a value of \$118,000. Eck included six comparable sales in her analysis. Five of the sales occurred in 2008 and one occurred in 2009. For the determination of a January 1, 2011, residential assessment, we hesitate to rely on an appraisal with an effective date that is more than eighteen months old. Additionally, the sales are even older than this. Because the property appears to be a non-descript, single-family residence, we find it difficult to believe the property is unique enough that there would be limited recent sales data for consideration of the current assessment. Because of the appraisals effective date, and due to it being a residential property, we cannot easily rely on the appraisal for the January 1, 2011 assessment date and we will not further analyze the appraisal.

The Board of Review did not provide any additional evidence.

Based upon the foregoing, we find Peisen has provided insufficient evidence to support a claim of over-assessment.

¹ With the exception of the kitchen floor.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).


In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

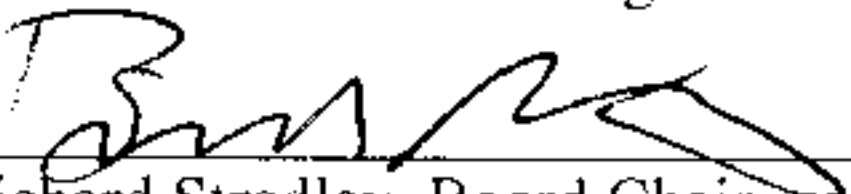
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Peisen did not provide sufficient evidence of the correct and actual market value of the subject property as of January 1, 2011. A preponderance of the evidence does not support the claim that the property is assessed for more than authorized by law.

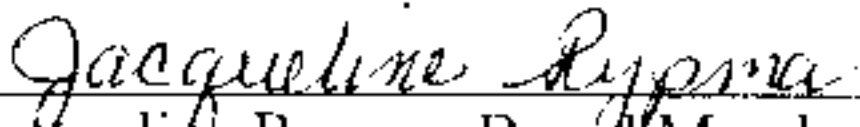
We therefore affirm the assessment of Derek J. Peisen's property as determined by the Black Hawk County Board of Review, as of January 1, 2011.

THE APPEAL BOARD ORDERS the assessment of Derek J. Peisen's property located at 416 N Division Street, Cedar Falls, Iowa, of \$136,310. as of January 1, 2011, set by Black Hawk County Board of Review, is affirmed.

Dated this 30 day of March, 2012.


Karen Oberman, Presiding Officer


Richard Stradley, Board Chair


Jacqueline Rypma, Board Member

Cc:

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APPELLANT

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ATTORNEY FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>3-30</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	